

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEF
c/m

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J & J SPORTS PRODUCTIONS, INC., as
Broadcast Licensee of the October 1, 2005
TARVER/JONES II Program,

Plaintiff,
-against-

JUSTO REALES and CECILIO WATERMAN,
Individually and d/b/a K'S BARBER SHOP
a/k/a K BARBER SHOP, and K'S BARBER
SHOP a/k/a K BARBER SHOP,

Defendants.

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MEMORANDUM AND ORDER
No. 06-CV-479 (FB) (SMG)

Appearances:

For the Plaintiff:

JULIE COHEN LONSTEIN, ESQ.
1 Terrace Hill, Box 351
Ellenville, NY 12428

BLOCK, Senior District Judge:

On April 9, 2007, Magistrate Judge Steven M. Gold issued a Report and Recommendation ("R & R") recommending that default judgment be entered against the defendants in the amount of \$6,575 – composed of \$5,000 in statutory damages and \$1,575 in attorneys' fees and costs – and denying plaintiff's request for injunctive relief. The R & R states that "[a]ny objections to this report and recommendation must be filed with the Clerk of the Court . . . within ten days of receipt and in any event no later than April 27, 2007," R & R at 11, and that "[f]ailure to file timely objections may waive the right to appeal the District Court's Order." *Id.* Plaintiff served a copy of the R & R on the defendants by certified mail on April 10, 2007. *See* Docket Entry #14 (Certificate of Service). To date, no

objections have been filed.

Where, as here, clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R & R without *de novo* review. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. See *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

As no error appears on the face of the Magistrate Gold's R & R, the Court adopts it without *de novo* review. The Clerk is directed to enter judgment to the extent permitted by the R & R.

SO ORDERED.

/signed/
FRÉDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
April 30, 2007